

REMARKS

Claims 1-23, 25-27, 29-31 and 33 are pending in this application. Claims 1, 4, 18 and 21-23 are the independent claims. By this Amendment, claims 24, 28 and 32 are cancelled without prejudice or disclaimer. Claims 1, 2, 4, 6, 7, 10, 12, 15, 18, 21-23 and 30 are amended. No new matter is added.

Allowable Subject Matter

The indication that claims 13, 17 and 29 would be allowable if rewritten to overcome the rejections under 35 USC §112, and to include the features of their respective base claims is appreciated. Claims 13, 17 and 29, as well as the remaining pending claims are in condition for allowance for the reasons discussed below.

Claim Rejections Under 35 USC §103

Claims 1-4, 7-12, 14, 15, 18-20, 27, 30, 31 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,337,944 to Morris in view of U.S. Patent No. 5,186,592 to Budenbender and U.S. Patent No. 4,315,132 to Saurin, et al. (Saurin). The rejection is respectfully traversed.

Morris discloses a method and apparatus for forming lengths of tubing of sheet metal. The lengths of tubing are cut to form can bodies 52. As admitted in the Office Action, Morris is silent regarding forming a cross-sectional restriction and attaching a closure member.

In an effort to overcome the admitted deficiencies, it is alleged that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Morris with the teachings of Budenbender.

Budenbender relates to a sheetmetal container having the shape of a barrel or drum and a pair of end closures attached (col. 1, lines 6-11). A drum body 1 receives a cover 2. The cover 2 includes a cylindrical wall 4, a depression 3 and a bottom 5 (Fig. 1). It is alleged in the Office Action that the drum body 1 corresponds to the claimed "can shell" and that a bulge in the cover bottom 5 is a cross-sectional restriction in the can shell. However, as clearly shown in Fig. 1 and described in the specification of Budenbender, the cover 5 is not a can shell. Thus, Budenbender fails to disclose or suggest "forming the sections to can shells with at least one cross-sectional restriction at least at one face side of the can shells."

Moreover, although Figs. 5 and 6 of Budenbender show a trough 16 in the drum body 1, the trough 16 is not “at one face side of the can shell.” In Budenbender the trough 16 is shown as being on a side wall of the drum body. Thus, the trough 16 is not at a face side “formed by front sides at edges on ends” of the can shell. Accordingly, Budenbender fails to disclose or suggest the feature as alleged in the Office Action.

Finally, Budenbender also fails to disclose or suggest, “one of the marginal face side of the bottom and the face side of the can shell at the bottom is inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside of the can,” as recited in each of the independent claims as amended.

It is further alleged in the Office Action that one of ordinary skill in the art would have been motivated to weld the tube of Morris using a weld technique taught by Saurin. Applicant submits that even were the tube of Morris welded according to the technique of Saurin, the combination of references fails to render the rejected claims obvious because Saurin fails to overcome the deficiencies of Morris and Budenbender discussed above.

In the Response to Arguments section of the Office Action, the Examiner explains his interpretation of certain features of the claims including a “face side,” “inside and outside of the can.” Applicant respectfully submits that the claims, as amended, clarify the features by further defining “face sides” and “front side.”

Regarding claims 2 and 20, the Examiner alleges that “the claim does not define the degree of the term ‘flat’”, and therefore Morris discloses that the tube is welded when the tube is flat. Applicant refers the Examiner to the recitation of “wherein the lateral marginal regions to be interconnected at the lateral edges are in supporting contact to the inner side of the can shell” in claim 2 for example. Thus, the method of Morris cannot form a can shell that have opposite areas of the inner surface of the can shell in contact with one another.

As the combination of references, whether considered alone or in combination, fail to disclose or suggest all of the features of the rejected claims, withdrawal of the rejection is respectfully requested.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris, Budenbender and Saurin in view of U.S. Patent No. 3,526,186 to Cornelius. The rejection is respectfully traversed.

Claims 5 and 6 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein. Moreover, as Cornelius does not overcome the deficiencies of Morris, Budenbender and Saurin, the combination of references fails to render the rejected claims obvious. Therefore, withdrawal of the rejection is respectfully requested.

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Morris, Budenbender and Saurin in view of U.S. Patent No. 6,389,866 to Radtke. The rejection is respectfully traversed.

Claim 16 is allowable for its dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein. For example, Radtke discloses press fitting a mounting cup 10 to an aerosol can body by aligning a series of grooves and dimples formed on respective surfaces. Thus, Radtke does not disclose or suggest “an upper closure member together with a valve is attached to the can shell by laser welding,” as recited in claim 16.

It is alleged that it would have been obvious to modify Morris to include an aerosol can top as disclosed in Radtke and attach the top by laser welding because Applicant allegedly fails to state any particular purpose for laser welding. As the purpose for laser welding is clearly stated throughout the specification of the present application, there is no motivation or suggestion to combine the references as proposed.

As Radtke does not overcome the deficiencies of Morris, Budenbender and Saurin, the combination of references fails to render the rejected claims obvious. Therefore, withdrawal of the rejection is respectfully requested.

Claims 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budenbender, Morris and Saurin. Claims 22 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Morris, Budenbender in view of Radtke. The rejections are respectfully traversed.

The combination of references fails to disclose or suggest all of the features recited in the rejected claims. For example, as discussed above, none of the Budenbender, Morris and Saurin disclose or suggest “a cross-sectional restriction at least at one face side of the can shell” and “one of the marginal face side of the bottom and the face side of the can shell at the bottom is

inside of the can and the other one of the marginal face side of the bottom and the face side of the can shell at the bottom is outside of the can,” as recited in independent claim 21 as amended.

Further, claims 25 and 26 are allowable for their dependency on independent claim 21 for the reasons discussed above, as well as for the additional features recited therein.

As none of the combination of references fails to disclose or suggest the claimed features, withdrawal of the rejection is respectfully traversed.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick, Reg. No. 41,018, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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